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(1) Supreme Court, U.S.
FILED

No. 07-438 SEP 25 2007

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In The

Supreme Court of the United States

MARK MOYERS, D.C.,

Petitioner,

v.

SOUTH CAROLINA BOARD OF CHIROPRACTIC EXAMINERS,

Respondent.

On Petition For A Writ Of Certiorari To The South Carolina Court Of Appeals

PETITION FOR A WRIT OF CERTIORARI

MARK MOYERS, D.C.,
in propria persona
P.O. Box 7652
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(732) 239-7521

QUESTIONS PRESENTED FOR REVIEW

Petition concerns a civil case and underlying criminal case.

1.

Does the conflict, in criminal case, between the final appellate tribunals of Illinois and South Carolina, offend constitutional guarantees to due process found at Amendment V, 1:1(a), and Amendment XIV 1:1(b), where on similar facts and law, South Carolina dismissed appeal following *Anders* brief, and, Illinois unanimously affirmed, at both Illinois Appellate and Illinois Supreme Courts, the Illinois trial court dismissal as unconstitutional, due to "single subject" mandate of state constitutions?

2.

Did the South Carolina Court of Appeals err, in civil case, affirming trial court dismissal of appeal from agency action, when, neither court provided curative instructions and leave to re-file as required by United States Supreme Court *Haines* doctrine and disregarding Petitioner's right to submit evidence of his claims for adjudication?

Petitioner, Mark Moyers, D.C., prays a Writ of Certiorari will issue to review the conflict between appellate tribunals and violations of this court's doctrine.

OPINIONS BELOW

The Order of the South Carolina Court of Appeals (hereafter SCCA), in civil case, was filed on March 13, 2006, Appendix. The Order of SCCA, in criminal case, was filed on June 24, 2004, Appendix.

Illinois Supreme Court, No. 98932, Illinois, v. Valdy Olender et al., filed December 15, 2005. N.B: Conflict submitted, via Supplemental Brief, to the South Carolina Supreme Court 1 year after petition filed, 20 days before criminal certiorari denied.

JURISDICTION

This Court has jurisdiction under 28 U.S.C.A. § 1254(1).

STATUTORY PROVISIONS INVOLVED

S.C. Code Ann. § 12-7-1640 (REPEALED) and § 12-54-40(b)(6)(c) (Enacted, Act 201) (REPEALED Act 114, June 30, 1999) and due process clauses of Fifth and Fourteenth Amendments of the United

States Constitution and S.C. Constitution, Article 17, single subject clause.

STATEMENT OF THE CASE

S.C. Code 12-7-1640 was expressly repealed without a savings clause, more than 5 years prior to arrest on April 22, 1997, or indictment for one count of violating S.C. Code Ann. § 12-7-1640, the proscribing statute, and § 12-54-40(b)(6)(c), the penalty statute[1], later *null prosequied.* December 1, 1997, three additional indictments, not charging a proscribing statute, only charging a penalty statute; § 12-54-40(b)(6)(c), a Class C misdemeanor, not a crime of moral turpitude, which enactment via Act 201, violates S.C. Constitution, Article 17's "single subject" mandate.

Act 114, on June 30, 1999 expressly REPEALED, without a savings clause, § 12-54-40(b)(6)(c). Subsequent prosecution is unconstitutional, absolutely void *ab initio.*

October 9, 2000, conviction of three counts, sentenced to three years confinement. Trial Judge expressed discomfort with trial after repeal.

[1] AmJur2d, "criminal", requires a proscribing statute, requiring or forbidding acts, and a penalty statute, affixing a penalty for violation of proscribing statute. One existed in indictment, so no criminality or jurisdiction.

March 23, 2001, Petitioner released on $5,000.00 appeal bond, after writing trial judge, showing Black's Law Dictionary, Federal Practice Digest, and 22 CJS § 28 & § 29, and state and federal caselaw, without contradiction, announced: "REPEAL effects the non-existence of thing repealed."

April 2, 2001, 2 years after express REPEAL without a savings clause, of only charged statute, South Carolina Board of Chiropractic Examiners (hereafter, Board) brought complaint, though convictions are outside Board's scope of authority.

October 19, 2001, after REPEAL, the Board found regulation violations solely due to convictions. Board deprived Petitioner of opportunity to be fully heard to set and complete the record on subject matter jurisdiction. The Board Order labeled convictions crimes of moral turpitude, exceeding their scope of authority and violating separation of powers doctrine as Legislature's statutory provision labeled otherwise.

April 9, 2004, 5 years after REPEAL, civil trial judge dismisses Petitioner's appeal, without curative instructions or leave to re-file, violating *Haines*, and disregarding right to submit evidence of his claims for adjudication, violating *Platsky*.

June 24, 2004, 5 years after REPEAL, the SCCA dismissed on an *Anders* brief criminal appeal, holding, *inter alia*, "no meritorious" appellate issues exist.

August 4, 2004, 5 years after REPEAL, the SCCA denied rehearing in the criminal case.

December 15, 2005, *unanimous* Illinois Supreme Court affirmed, *unanimous* Illinois Appellate Court's Order affirming, Illinois trial court *dismissal of all charges*, as violating "single subject" mandate of state constitution.

February 2006, 7 years after REPEAL, the South Carolina Supreme Court denied certiorari in criminal case. Remittitur (in criminal case) having not been sent, Petitioner can't seek state PCR remedies, *habeas corpus*, or other relief, because none have ever been available. Negative effects of convictions, and appeal bond continue unabated.

March 13, 2006, 7 years after REPEAL, the SCCA affirmed, the trial court's dismissal of civil appeal.

May 26, 2006, 7 years after REPEAL, Rehearing denied in the civil appeal.

May 3, 2007, 8 years after REPEAL, certiorari was denied in the civil appeal.

This Petition for Writ of Certiorari in the civil appeal ensued, more than 8.25 years after REPEAL, underscoring the primacy of the criminal case.

REASONS FOR GRANTING WRIT

I. APPELLATE COURTS CONFLICT

Federal due process requires of South Carolina a hearing on the merits rather than dismissal on *Anders* brief, where Illinois Appellate and Supreme courts, ruled the argument meritorious enough to hear and to win.

Where as here, the South Carolina Legislature, in recognition that § 12-54-40(b)(6)(c) was enacted by Act 201, in violation of the South Carolina Constitution, Article 17's "single subject" mandate, expressly REPEALS without a savings clause, the only statute in indictments, the penalty statute, and which is only ½ of what is necessary to create criminality, nearly 2 years prior to trial, this court should resolve the conflict of whether that is a "meritorious" appellate issue. This is especially true where Illinois' appellate court and Illinois' court of last resort have answered in the affirmative, because this creates a conflict between two appellate tribunal's adjudications on the same issues of fact and law. Resolution of conflict between two appellate tribunals will conserve judicial resources. Use of this courts discretionary review will serve to remove arbitrary and capricious rulings from our country's precedents. It is this use of this courts discretion that gives meaning and effect to the words of Justice (Professor) Joseph Story quoted in *Anastasoff v. U.S.*, 223 F.3d 898 (vacated as moot on other grounds at 235 F.3d 1054) (cited as an artistic descriptor of the precedents therein.) and which gives

soundness to the historical underpinnings of the doctrine of precedent so cogently expressed throughout *Anastasoff*. Additionally, such is well grounded in the logic upon which the doctrine of precedent is dependent. The logic and reason first given to us by Aristotle, developed by the early Greek philosophers and then by the Renaissance philosophers, which gave their greatest expression in the American Revolution of 1776 by producing the constitutions of which we speak, and the freedoms which allowed said logic to be still further developed by, and as expressed by Chief Justice Rehnquist in the dissenting opinion of *Dickerson v. New Banner Institute, Inc.*, 460 U.S. 103; he stated that "precedent does not trump logic." This admonition taken with that found in *Anastasoff* that precedent may only and must change in accord to the dictates of reason, is what makes American jurisprudence the greatest body of human reasoning in history. (See, Preface, App. 42)

II. AFTER NOTICE, APPELLATE AND TRIAL COURTS VIOLATE UNITED STATES SUPREME COURT DOCTRINE IN *HAINES V. KERNER*, 404 U.S. 519, AND IT'S SISTER, *PLATSKY V. CIA*, 953 F.2d 25.

When civil trial court is serving for judicial review in appellate capacity from agency action, the court dealing with *in propria persona* or *pro se* litigants, must reach the merits or at least provide curative instructions and leave to re-file, or violate

the doctrine announced in *Haines v. Kerner*, 404 U.S. 519, and else where in *Platsky v. CIA*, 953 F.2d 25.

III. POST REPEAL ACTS NOT MERELY VOIDABLE BUT VOID

Look no further than the express repeal, without a savings clause of the only statute charged, date of June 30, 1999, and compare to the dates, all of which fall after June 30, 1999, of all other actions and Orders in either the civil matter or the underlying criminal matter to know that relief is appropriate via this Petition. Because one state recognized unconstitutionality while another found that such claims are frivolous or non-meritorious, this disparity between two appellate tribunals is a conflict consisting of too great a gap to leave uncorrected, least the states be left to arbitrarily define federal due process.

CONCLUSION

For the foregoing reasons, and that the negative effects of these cases continue, and that no other avenue for relief is left open or otherwise available for Petitioner, it is respectfully submitted that the Petition for a Writ of Certiorari should be granted.

Respectfully submitted,

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THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING EXCEPT AS PROVIDED BY RULE 239(d)(2), SCACR.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Mark Moyers, Appellant,

v.

South Carolina Department of Labor, Licensing, and Regulation, Board of Chiropractic Examiners, Respondents.

Appeal From Charleston County
John C. Hayes, III, Circuit Court Judge

Unpublished Opinion No. 2006-UP-151
Submitted March 1, 2006 – Filed March 13, 2006

AFFIRMED

Mark Moyers, of Columbia, for Appellant.

Assistant General Counsel Geoffrey R. Bonham, of Columbia, for Respondents.

PER CURIAM: Mark Moyers, a chiropractor licensed to practice in South Carolina, was convicted of willful failure to file state income tax returns in violation of section 12-54-40(b)(6)(C) of the South

Carolina Code (1976)[1] for the years of 1994, 1995, and 1996. As a result of this conviction, the South Carolina Board of Chiropractic Examiners (the Board) found Moyers violated certain provisions of the South Carolina Chiropractic Practice Act and imposed on Moyers a $750 fine, plus cost to be determined, and placed his chiropractic license on probation for one year. The Administrative Law Judge affirmed. The circuit court dismissed his appeal. Moyers now argues the Board acted without subject matter jurisdiction, and the circuit court erred in dismissing his appeal. We affirm.[2]

1. All arguments raised by Moyers are merely conclusory statements. Consequently, Moyers abandoned his issues on appeal, and we need not consider them. *See Medical Univ. of South Carolina v. Arnaud*, 360 S.C. 615, 620, 602 S.E.2d 747, 750 (2004) (failure to provide arguments or supporting authority for an issue renders it abandoned); *Muir v. C.R. Bard, Inc.*, 336 S.C. 266, 298-99, 519 S.E.2d 583, 600 (Ct. App. 1999) (conclusory arguments may be treated as abandoned).

2. Moyers' arguments fail on the merits as a matter of law. First, the Board clearly had subject matter jurisdiction. *See* S.C. Code Ann. §§ 40-9-30, 40-9-31,

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[1] This section has subsequently been repealed, and the pertinent language is currently in section 12-54-44. *See* 1999 Act No. 114, § 4 (eff. June 30, 1999).

[2] We decide this case without oral argument pursuant to Rule 215, SCACR.

and 40-9-90 (2001). Second, the circuit court was acting as an appellate court when it reviewed the Board's decision. *See* S.C. Code Ann. § 1-23-380 (2005); *S.C. Dep't of Motor Vehicles v. Nelson*, 364 S.C. 514, 519, 613 S.E.2d 544, 547 (Ct. App. 2005) ("In reviewing a final decision of an administrative agency, the circuit court essentially sits as an appellate court to review alleged errors committed by the agency") (citing *Kiawah Resort Assocs. v. South Carolina Tax Comm'n*, 318 S.C. 502, 505, 458 S.E.2d 542, 544 (1995)). Accordingly, the circuit court properly dismissed Moyers' appeal because he was not entitled to the relief he sought – for example, a de novo trial.

AFFIRMED.

HEARN, C.J., ANDERSON and KITTREDGE, JJ., concur.

THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING EXCEPT AS PROVIDED BY RULE 239(d)(2), SCACR.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

The State, Respondent,

v.

Mark Moyers, Appellant.

Appeal From Bamberg County
William P. Keesley, Circuit Court Judge

Unpublished Opinion No. 2004-UP-409
Submitted April 21, 2004 – Filed June 24, 2004

APPEAL DISMISSED

Deputy Chief Attorney Joseph L. Savitz, of Columbia, for Appellant.

Attorney General Henry Dargan McMaster, Chief Deputy Attorney General John W. McIntosh, Assistant Deputy Attorney General Harold M. Coombs, Jr., all of Columbia; and Solicitor Barbara R. Morgan of Aiken, for Respondent.

PER CURIAM: Mark Moyers (Appellant) was convicted of three counts of willful failure to file state

income tax returns. He received consecutive sentences of one year in prison and was ordered to pay costs and assessments on each count.

On appeal, counsel for Appellant has filed a final brief along with a petition to be relieved as counsel. Appellant has filed a *pro se* response. After a thorough review of the record pursuant to *Anders v. California*, 386 U.S. 738 (1967) and *State v. Williams*, 305 S.C. 116, 406 S.E.2d 357 (1991), we dismiss the appeal and grant counsel's petition to be relieved.

APPEAL DISMISSED.[1]

GOOSLBY, HOWARD, and BEATTY, JJ., concur.

[1] This case is decided without oral argument pursuant to Rule 215, SCACR.

STATE OF SOUTH CAROLINA **COUNTY OF RICHLAND**	**IN THE COURT OF COMMON PLEAS FOR THE FIFTH JUDICIAL CIRCUIT**
Mark Moyers, D.C, Appellant, vs. South Carolina Department of Labor, Licensing and Regulation, Board of Chiropractic Examiners, Respondent.	**Case No. 03-CP-40-4378** **ORDER** (Filed Apr. 16, 2004)

This matter comes before me on the Motion to Dismiss of Respondent, South Carolina Department of Labor, Licensing and Regulation, Board of Chiropractic Examiners, of the above-referenced filing, which purports to be an "appeal" of the April 1, 2003 Order of the Hon. Carolyn C. Matthews, Administrative Law Judge (ALJ). A hearing on that motion was held before this Court in Columbia, South Carolina on March 22, 2004. Respondent has moved to dismiss the purported appeal on the grounds that, *inter alia*, it is frivolous and without legal or factual basis. I agree.

Although the certificate of service contained in the ALJ's April 1, 2003 Order indicates that the "Appellant," Mark Moyers, was served by mail with a copy of the Order on that same date, Moyers filed nothing with this Court until early September 2003.

In an affidavit signed by Moyers and notarized in Monmouth County, New Jersey, Moyers maintains that he did not receive a copy of the ALJ's Order until August 29, 2003. From these circumstances one might easily infer that Mr. Moyers had at least temporarily moved to New Jersey but did not notify the ALJ, and that his alleged failure to receive the Order is attributable to that inaction on his part. Thus a substantial question exists as to whether Moyers has filed his purported appeal in a timely manner. Assuming, however, that Moyers' filing is timely, I find that this "appeal" must nonetheless be dismissed.

Moyers' filing consists of is a "claim and demand for De Novo Trial" [sic] and for "full judicial review," a demand for jury trial and a request for arbitration. Under the law applicable to this case, specifically, S.C. Code Ann. § 1-23-380(A)(5) (Supp. 2003), Moyers is simply not entitled to what he seeks. That Code section specifies that this Court's review shall be "conducted . . . without a jury and shall be confined to the record." Accordingly, it cannot be any clearer that Moyers is not entitled to jury trial or trial *de novo*. In addition, § 1-23-380(A)(5) makes no provision for arbitration; and, the rules governing Alternative Dispute Resolution (ADR) expressly exclude from arbitration "cases which are appellate in nature," which this purports to be. Rules 2(b) & (c) and Appendix, C, S.C. Cir. Ct. ADR Rules. Indeed, although Moyers wrote in "NOTE: I REQUEST To *USE* Arbitration!" he nonetheless filled out and signed and

dated the Certificate of Exemption from ADR and marked the blocks on that form and on the Cover Sheet indicating that his filing was exempt from arbitration. Accordingly, by law and by Moyers' own admission, this matter is excluded from arbitration.

Although § 1-23-380(A) provides that it "does not does not [sic] limit utilization of or the scope of judicial review available under other means of review, redress, relief or trial, *de novo* provided by law," this language does not *create* any rights but merely makes clear that § 1-23-380 does not negate other available remedies provided by law. For Moyers, however, the sole means of directly challenging the Order of the ALJ is under the Administrative Procedures Act, specifically, § 1-23-(A)(5) [sic].

Finally, Moyers' request for "full judicial review" is facially and fatally insufficient for the purposes of appeal. It is broad, vague and lacks specificity. The filing as a whole is insufficient as a matter of law to invoke the appellate jurisdiction of this Court, in that it does not draw the Court's attention to any abuse or abuses by the ALJ through "a distinct and specific statement of the rulings" of which Moyers complains. *See Smith v. S.C. Dep't of Social Services*, 284 S.C. 469, 471, 327 S.E.2d 348, 349 (1985) *and Pringle v. Builders Transport*, 298 S.C. 494, 495, 381 S.E.2d 731, 732 (1989). Lack of subject matter jurisdiction cannot be waived or conferred upon the Court by the parties; and, it may be raised at any time, including on this Court's own motion. *Campbell v. State*, 342

S.C. 100, 101, 535 S.E.2d 928, 929 (2000); *State v. Richburg*, 304 S.C. 162, 403 S.E.2d 315, 317 (1991).

THEREFORE, this Court finds that Respondent's motion should be and is hereby **GRANTED**, and the above-captioned matter is hereby **DISMISSED.**

AND IT IS SO ORDERED.

/s/ John C. Hayes, III
John C. Hayes, III
Judge of the Sixteenth Circuit
Presiding Judge

April 9th, 2004

STATE OF SOUTH CAROLINA	IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND	
	C/A NO.: 03-CP-40-4378
MARK MOYERS, D.C., Plaintiff,	
vs.	
SOUTH CAROLINA DEPARTMENT OF LABOR, LICENSING AND REGULATION, Defendant.	**ORDER** (Filed June 7, 2004)

This matter came before the court upon written motion of Mark Moyers, D.C. (Plaintiff) for a Motion for Reconsideration and Petition to Vacate Order of April 9th, 2004. After consideration by this Court, the Plaintiff's motion is hereby denied.

IT IS SO ORDERED!

/s/ John C. Hayes, III
John C. Hayes, III
Presiding Judge

5/18th, 2004
Union, South Carolina

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW JUDGE DIVISION

Mark Moyers, Appellant, vs. South Carolina Department of Labor, Licensing and Regulation, Board of Chiropractic Examiners, Respondent.	Docket No. 01-ALJ-11-0557-AP **FINAL ORDER AND DECISION** (Appeal)

Appearances: Mark Moyers,
In Propria Persona, Pro Se
Geoffrey R. Bonham, Esq.
for Respondent

(Filed Apr. 1, 2003)

PROCEDURAL HISTORY

The Respondent (the Board) is an agency of the State of South Carolina which is statutorily mandated to regulate the practice of chiropractic in this State pursuant to S.C. Code Ann. § 40-9-10 *et seq.* (Supp. 2002). The Board has the exclusive responsibility to discipline licensed chiropractors for acts of professional misconduct, as provided in S.C. Code Ann. § 1-23-310 *et seq.* (Supp. 2002), and the S.C. Code Ann. § 40-9-10 *et seq.* (Supp. 2002).

The Appellant is a chiropractor licensed by the Board to practice chiropractic in South Carolina. On

June 7, 2001, a designated hearing officer for the Board heard charges against the Appellant which resulted from a formal complaint that had been properly served upon him. The Appellant did not appear at that hearing; the State was represented by Richard W. Simmons, II, Esquire.

As a result of the evidence presented at that hearing, the hearing officer produced a written report recommending disciplinary action against the Appellant for violating various sections of the laws governing the practice of chiropractic, based on his convictions of three counts of willful failure to file an income tax return. A final hearing was held before the full Board on August 23, 2001, and the Board issued a Final Order on October 19, 2001. That Order found the Appellant violated the law governing the practice of chiropractic, imposed a $750.00 fine, ($250.00 each for violations of S.C. Code Ann. § 40-9-90(6), Reg. 25-6A(7) and S.C. Code Ann. § 40-9-90(7)), plus costs to be determined, and placed his license on probation for a period of one year.

During the pendency of this proceeding, the Appellant filed a Motion for Injunctive Relief with the Circuit Court in Richland County on June 6, 2001. The Appellant did not seek to stay the Board's proceedings. The Honorable Thomas Cooper issued an Order denying the Appellant's Motion for Injunctive Relief on August 1, 2001.

The Appellant filed an appeal of the Board's decision with this Court on October 25, 2001.

SCOPE OF REVIEW

A reviewing court may not overturn an agency's decision unless that decision is "clearly erroneous in view of reliable, probative and substantial evidence on the whole record." S.C. Code Ann. § 1-23-380 (A)(6)(e) (Supp. 2002). The South Carolina Supreme Court has defined "substantial evidence" as "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *Midlands Utility, Inc. v. S.C. Department of Health and Environmental Control,* 298 S.C. 66, 69, 378 S.E.2d 256, 258 (1989). In applying this standard of review, an appellate court may not substitute its judgment for that of the agency concerning the weight of the evidence on questions for fact, even if there is room for a difference of intelligent opinion as to the weight that could be afforded that evidence. *See e.g., Toussaint v. State Board of Medical Examiners,* 303 S.C. 316, 400 S.E.2d 488 (1991). The decision of the administrative agency can be reversed only if the administrative findings are clearly erroneous in view of the substantial evidence on the record as a whole. *Lark v. Bi-Lo, Inc.,* 276 S.C. 130, 276 S.E.2d 304 (1981). Applying this standard to the facts, substantial evidence exists to support the Board's finding that the Appellant violated the laws governing the practice of chiropractic in this State when he was convicted in criminal court of three counts of willful failure to file his income taxes.

The Appellant's brief is unusual in that it articulates no issues on appeal, not [sic] does it address

except tangentially the actual hearing before the Board. However, in light of Appellant's *pro se* status, there are several issues that were indirectly raised in the brief, which will be addressed below.

ANALYSIS

I. THE BOARD HAD BOTH PERSONAL AND SUBJECT MATTER JURISDICTION OVER THIS MATTER, AND THE ADMINISTRATIVE LAW JUDGE DIVISION HAS JURISDICTION TO HEAR THIS APPEAL.

In paragraphs 1, 2, and 16 of his brief, the Appellant alleges that the Board had no jurisdiction to hear a disciplinary action against him, and that the Administrative Law Judge Division (ALJD) has no jurisdiction to hear this case on appeal. This argument is rejected in light of the clear statutory authority empowering the Board to hear disciplinary actions against licensed chiropractors and empowering this Court to hear appeals of all Chiropractic Board disciplinary actions.

The Appellant claimed at oral argument that the composition of Board was unconstitutional based on the Board members' membership in a trade association, in addition to their participation on the Board. The Appellant contends that such membership and participation constitutes dual office holding and, as such, is unconstitutional. Without deciding this issue, I find that *Great Games, Inc. And Busters, Inc. v. South Carolina Department of Revenue,* 339 S.C. 79,

529 S.E.2d 6 (2000) controls. There, Chief Justice Finney found that the ALJD is "an agency of the executive branch of government, and must follow the law as written until its constitutionally (*sic*) is *judicially* determined; ALJs have no authority to pass upon the constitutionality of a statute or regulation." (Emphasis in original)

The Appellant is a licensed chiropractor. Thus, he is subject to the jurisdiction of the Board, which has the authority to regulate his license. S.C. Code Ann. § 40-9-30 (Supp. 2002). The Board has the authority to discipline licensees [§40-9-30(D)(10) Supp. 2002] if they commit certain misconduct delineated in § 40-9-90 (Supp. 2002), which includes a violation of any duly enacted regulation of the Board.

The Board has additional grounds to discipline licensees if they commit violations of S.C. Code Ann. § 40-1-110 (Supp. 2002) [as applied to all administrative Boards listed in § 40-1-40 (Supp. 2002)]. In this case, the Appellant was convicted of three criminal offenses for willfully failing to file his income taxes for three consecutive years. The Board found that those convictions violated its Regulation 25-6(A)(7), which makes the conviction of a felony or a misdemeanor an unprofessional act justifying discipline. It found that the convictions violated Regulation 25-7(A) in that they were dishonorable, unethical or unprofessional, which is also an unprofessional act defined by that regulation. Finally, the Board found that the Appellant's conduct relating to the convictions violated S.C. Code Ann. § 40-1-110(h) in that the

convictions were for crimes of moral turpitude. Moral turpitude is defined as "an act of baseness, evilness, or depravity in the private and social duties which man owes to his fellow man or to society in general, contrary to the customary and accepted rule of right and duty between man and man. *State v. Major,* 301 S.C. 181, 391 S.E.2d 235 (1990). In determining whether a crime is one involving moral turpitude, the court focuses primarily on the duty to society and fellow man which is breached by the commission of the crime. *Id.*" Alex Sanders, *et al., Trial Handbook For South Carolina Lawyers.* § 13:13 Impeachment by Crimes of Moral Turpitude (1994). Because each of these violations were properly enacted as statues [sic] or regulations, the Board had the authority to subject the Appellant, a licensee, to its jurisdiction and to discipline him for these violations.

The Administrative Law Judge Division has jurisdiction to hear all appeals of final orders from the Board. S.C. Code Ann. § 1-23-380(B) (Supp. 2002). Therefore, this Court is the appropriate tribunal to exercise jurisdiction over this appeal. Obviously, the Appellant recognized this fact, because he filed his appeal with this Court. Although the Appellant argued that he was appearing *pro propria persona* to contest personal jurisdiction, by arguing the merits of the case, he waived his right to contest personal jurisdiction. *See e.g., Connell v. Connell,* 249 S.C. 162, 153 S.E. 2d 396 (1967).

II. THE BOARD HAS THE AUTHORITY TO DISCIPLINE THE APPELLANT FOR THE COMMISSION OF EITHER A FELONY OR A MISDEMEANOR.

The Appellant appears to argue in his brief that the Board had no authority to discipline him because he was convicted of three misdemeanors instead of felonies. That is incorrect. S.C. Code Regs. 25-6(A)(7) (Supp. 2002) defines unprofessional conduct by a chiropractor to include either a conviction for a felony or misdemeanor. That regulation, when read in conjunction with S. C. Code Ann. § 40-9-90(6), which states that it shall be misconduct for a chiropractor to violate any regulation of the Board, clearly gives the Board authority to discipline a chiropractor based on either a felony or misdemeanor conviction.

III. THE RECORD ON APPEAL PRESENTED TO THIS COURT IS COMPLETE.

The Appellant states in his brief that the Record on Appeal that was submitted by counsel to the Board was incomplete because additional material should be presented. The additional material that the Appellant contends is part of the record consists of a prior disciplinary matter, which was affirmed by this Court, but dismissed while on appeal to the Circuit Court. That matter involved the Board's action against the Appellant's license, because he had failed to inform the Board on his license renewal application that he had been indicted for the crimes of which he was eventually convicted. The Board's license

renewal application asked the Appellant whether he had been arrested since he last renewed his license, and he answered "no." In fact, however, the Appellant had been arrested for the three offenses, and the Board viewed his answer to the contrary as dishonest. Ultimately, the Board settled the disciplinary action against the Appellant privately, and the matter was closed.

The appeal before this Court from the convictions of the Appellant for these offenses. Although this case stems from the ultimate convictions of these charges, it is not the same case, and the Appellant may not assert *res judicata* as a defense to the action taken by the Board for his convictions of three counts of willful failure to file his taxes. See, *South Carolina Department of Natural Resources v. Miller* and *South Carolina Department of Natural Resources v. Jamieson,* 97-ALJ-13-0213, which states that "during the pendency of an appeal from a conviction, there is no right entitling the licensee to a supersedeas from administrative proceedings." (Citing *Parker v. State Highway Dept.,* 224 S.C. 263, 78 S.E.2d 382 (1953)).

IV. THE BOARD HAD SUBSTANTIAL CREDIBLE EVIDENCE ON WHICH TO BASE ITS FINDINGS AND TO TAKE DISCIPLINARY ACTION.

In paragraph 12 of the Appellant's argument, he alludes to a lack of evidence to support the Board's decision in this matter. The Board disciplined the

Appellant for three convictions of willfully failing to file his income tax return. At the hearing, the criminal indictments, as well as certified documents reflecting that the Appellant had been convicted of the offenses, were entered into evidence. (Record, pp. 58-63). This evidence was sufficient to establish that the Appellant had been convicted of the offenses. The Board's decision to conclude that these convictions violated the prohibition against professional misconduct in the practice of chiropractic was well within their discretion.

V. THE APPELLANT WAS ADEQUATELY NOTIFIED OF THE HEARINGS BEFORE THE BOARD.

The Appellant alleges in paragraphs 14 and 15 of his brief that he was not afforded adequate notice of the hearings before the Board. The record establishes that the Appellant was properly notified of the hearing by certified mail on April 2, 2001, (R. p. 10) for a hearing date originally scheduled for May 24, 2001 (R. pp. 12-13). Pursuant to his verbal request, the Appellant was granted a continuance until June 7, 2001. (R. pp. 12-13). Notice of the new hearing date was sent to him in writing on May 25, 2001 (R. pp. 10-11, 53). The Appellant was well aware of the charges and the original hearing date for the requisite thirty days. (See S.C. Code Ann. § 1-23-320(A) (Supp. 2002). He personally appeared at the Board's offices to seek a continuance until June 7, 2001, and then filed a motion seeking injunctive relief from the

Circuit Court on June 6, 2001, one day prior to his hearing. (R. pp. 12-14, 54). That motion was ultimately denied (R. pp. 87-89). The Appellant's assertions that he did not receive notice are unsupported by the record.

VI. THE FACT THAT THE APPELLANT IS APPEALING HIS CRIMINAL CONVICTIONS DOES NOT PREVENT THE BOARD FROM TAKING DISCIPLINARY ACTION AGAINST HIS LICENSE.

The Appellant argues in paragraphs 14 and 15 that his convictions were erroneous and that he has appealed them. The Appellant, however, stands convicted of three criminal violations for failing to file his income taxes. Unless and until these convictions are overturned, the Board acted properly by taking action against his license based on these convictions.

The balance of the Appellant's brief contains threats of prosecution against counsel for the Board, demands for a jury trial, assertions that this litigation is frivolous, explanations of his status appearing *in propria persona* and general objections to the entire administrative and criminal process in the state of South Carolina. The Appellant raised similar allegations at oral argument, including allegations of fraud in the composition of the Board that heard his case. These attacks are baseless and unfounded.

CONCLUSION

For the reasons stated herein, I find that the Board's decision to fine the Appellant $750.00, plus costs, and to place his license on probation for one year is adequately supported by the reliable, probative and substantial evidence in the whole record of the case as it comes before me on appeal. Further, the sanctions are within the range authorized by the statute. Therefore, the decision of the Board of October 19, 2001 is hereby **AFFIRMED.**

AND IT IS SO ORDERED.

/s/ Carolyn C. Matthews

Carolyn C. Matthews

Administrative Law Judge

April 1, 2003

Columbia, SC

BEFORE THE SOUTH CAROLINA BOARD OF CHIROPRACTIC EXAMINERS

In the Matter of:	)	
Mark Moyers, D.C.,	)	
License No.: 1647,	)	**FINAL ORDER**
(2001-015)	)	
	)	

This matter came before the Board of Chiropractic Examiners (the Board) for hearing on August 23, 2001 as a result of the Notice of Hearing and Complaint which was served upon the Respondent and filed with the Board on July 23, 2001. The hearing was conducted before the Board to consider and act upon the report of Edward L. Sessions, D.C., the Hearing Examiner selected by the Board, who heard the charges in the Complaint on June 7, 2001. The hearing was held pursuant to the authority of S.C. Code Ann. § 40-1-10 *et seq.* (Supp. 1997) and §§ 40-1-31 and 40-9-90 (1986 and Supp. 1997). The State was represented by Richard W. Simmons, II, Esquire. The Respondent appeared pro se.

The Respondent was charged with violation of S.C. Code Ann. §§ 40-1-110(h), 40-9-9.0(6) and (7), and Regulations 25-6A(7) and 25-7(A) of the Rules and Regulations of the Board.

At the commencement of the hearing, the Respondent made several pre-trial motions, including requests for the recusal of several Board members

and for dismissal for lack of jurisdiction. The motions were denied. The motions and arguments of counsel relative to the motions are a part of the record in this case.

FINDINGS OF FACT

After careful consideration of the testimony at the hearing and the record, the Board makes the following findings of fact:

1. The Respondent was duly licensed to practice chiropractic at all times relevant to the issues raised in the Complaint.

2. On or about October 6, 2000, in the Court of General Sessions for Bamberg County, the Respondent was convicted on Indictment No. 97-GS-05-289 for Willful Failure to Make Income Tax Return in violation of Section 12-54-40(b)(6)(C) of the 1976 Code.

3. On or about October 6, 2000, in the Court of General Sessions for Bamberg County, the Respondent was convicted on Indictment No. 97-GS-05-290 for Willful Failure to Make Income Tax Return in violation of Section 12-54-40(b)(6)(C) of the 1976 Code.

4. On or about October 6, 2000, in the Court of General Sessions for Bamberg County, the Respondent was convicted on Indictment No. 97-GS-05-291 for Willful Failure to Make Income Tax Return in violation of Section 12-54-40(b)(6)(C) of the 1976 Code.

CONCLUSIONS OF LAW

Based upon a careful consideration of the testimony and the record in this matter, the Board concludes as a matter of law that:

5. The Board has jurisdiction in this matter and upon a finding that a licensee has violated any provisions of S.C. Code Ann.§40-9-90(1976), as amended, has the authority pursuant to S.C. Code Ann.§40-9-30 and 31(1976), as amended, to order the revocation, suspension, or restriction of the license of a licensee to practice chiropractic, or take other action short of revocation or suspension, including assessing a civil fine of up to two thousand dollars for each violation not to exceed a total fine of ten thousand dollars, and may assess and collect costs of the disciplinary investigation and prosecution.

6. Respondent has violated Section 40-1-110(h) of the 1976 Code in that Respondent has been convicted of a crime of moral turpitude, as evidenced by Respondent's conviction on three (3) indictments for Willful Failure to Make Income Tax Return in violation of Section 12-54-40(b)(6)(C).

7. Respondent has violated Section 40-9-90(6) of the 1976 Code in that Respondent has violated a Regulation promulgated by the Board, specifically, *Regulation 25-6A(7),* in that Respondent has been convicted of a felony or misdemeanor, as evidenced by Respondent's conviction on three (3) indictments for Willful Failure to Make Income Tax Return in violation of Section 12-54-40(b)(6)(C).

8. Respondent has violated Section 40-9-90(7) of the 1976 Code in that Respondent has engaged in dishonorable, unethical, or unprofessional conduct that is likely to deceive or harm the public, as evidenced by Respondent's conviction on three (3) indictments for Willful Failure to Make Income Tax Return in violation of Section 12-54-40(b)(6)(C).

9. The sanction imposed is consistent with the purpose of these proceedings and has been made after weighing the public interest and the need for the continued services of qualified chiropractors against the countervailing concern that society be protected from professional ineptitude and misconduct.

10. The sanction imposed is designed not to punish the Respondent, but to protect the life, health, and welfare of the people at large.

THEREFORE, IT IS ORDERED, ADJUDGED and DECREED that:

1. The Respondent shall pay the following civil penalties and costs within thirty days of the effective date of the final order in this matter:

    A. Two Hundred and Fifty ($250.00) Dollars for violation of Section 40-9-90(6) of the 1976 Code,

    B. Two Hundred and Fifty ($250.00) Dollars for violation of *Regulation 25-6A(7),*

    C. Two Hundred and Fifty ($250.00) Dollars for violation of Section 40-9-90(7) of the 1976 Code.

D. The Respondent shall pay the costs of the investigation and prosecution of this matter in the amount designated by the Board based upon the Fee Affidavit submitted at the time of the Final Order Hearing in this matter.

2. If Respondent fails to pay the civil penalties and costs within the time designated by the Board, his license shall be immediately suspended until such time as the fines and costs are paid.

3. The Respondent's license shall be placed in probationary status for a period of one year from the effective date of the final order upon the following terms and conditions of probation:

   a. Respondent shall appear and report to the Board as requested by the Board.

   b. The Respondent shall comply with the terms of the final order and all state and federal statutes and regulations concerning the practice of chiropractic.

   c. The Respondent shall promptly advise this Board in writing of any changes in address, practice, professional status, or compliance with the final order. Correspondence and copies of reports and notices shall be directed to:

      South Carolina Department
      of Labor, Licensing, and Regulation
      Board of Chiropractic Examiners
      Post Office Box 11329
      Columbia, SC 29211-11329

4. Failure of the Respondent to abide by any of the terms of probation shall warrant the immediate suspension of his license to practice chiropractic in this State pending a hearing and further order of the Board.

5. The final Order shall take effect ten (10) days from the date of service of the final order on the Respondent.

IT IS SO ORDERED.

BOARD OF CHIROPRACTIC EXAMINERS

/s/ Henry W. Hulteen D.C.
Henry W. Hulteen, D.C.,
Chairman

10/19, 2001

STATE OF SOUTH CAROLINA	**IN THE COURT OF GENERAL SESSIONS**
COUNTY OF Bamberg	INDICTMENT/CASE #:
STATE VS.	97 -GS- 05 - 291
Mark Moyers	A/W#:
AKA:	Date of Offense: 4-17-95
Race: W Sex: M	S.C. Code §: 12-54-40(b)(6)(C)
DOB: XX-XX-XX Age:	CDR CODE #: 0 / 6/ 9/ 7
SSN: XXX-XX-XXXX	
DL:	**SENTENCE**
SID#	☐ PLEA ☒ TRIAL

On disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: Willful Failure to Make Income Tax Return

In violation of § 12-54-40(b)(6)(C) of the S.C. Code of Laws, bearing CDR Code # ___ / ___ / ___ / ___

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS
☐ MOST SERIOUS ☐ 17-25-45

The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor	Defendant	Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☑ **State Department of Corrections**, ~~☐ **County Detention Center**~~, for a determinate term of 1 ~~days/ months/~~years ~~or ☐ under the **Youthful Offender Act** not to exceed ___ years and/or to pay a fine of $___; provided that upon the service of ____ days/ months/years and/or payment~~ $----------; plus costs and assessments as applicable*; ~~the balance is suspended with **probation** for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.~~

The Defendant is to be given credit for ___ days/ months jail time.

☐ CONCURRENT or ☑ CONSECUTIVE to sentence on: 97-GS-05-290 +289

SPECIAL CONDITIONS:

☐ RESTITUTION ☐ Heard, ☐ Waived, ☐ Ordered

Total: $ _____ plus 20% fee $ _____

Payment Terms: _____

☐ set by SCDPPPS _____

_____

Recipient: _____

_____

fine:..... $ _____

14-1-206 – Assessments
100%..... $ _____

14-1-211 – Surcharge.....$ _____

Exceptions: See § 14-1-211)

56-5-2995 (DUI).....$ _____

County (3%).....$ _____

TOTAL.....$ _____

Clerk of Court/Deputy Clerk _____

Court Reporter: _____

PTUP _____

_____ days/hours Public Service Employment

Obtain GED _____

Attend Voc Rehab. or Job Corps _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol Testing _____

Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ beginning _____

$_____ paid to the Public Defender Fund.

Other: _____

_____

PRESIDING JUDGE /s/ William P. Keesley

Judge Code: / 0 / 5 / 0

Sentence Date: 10-6-2000

_____

STATE OF SOUTH CAROLINA	**IN THE COURT OF GENERAL SESSIONS**
COUNTY OF Bamberg	INDICTMENT/CASE #:
STATE VS.	97 -GS- 05 - 290
Mark Moyers	A/W#:
AKA:	Date of Offense: 4-15-96
Race: W Sex: M	S.C. Code §: 12-54-40(b)(6)(C)
DOB: XX-XX-XX Age:	CDR CODE #: 0 / 6/ 9/ 7
SSN: XXX-XX-XXXX	
DL:	**SENTENCE**
SID#	☐ PLEA ☒ TRIAL

On disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: Willful Failure to Make Income Tax Return

In violation of § 12-54-40(b)(6)(C) of the S.C. Code of Laws, bearing CDR Code # 0 / 6 / 9 / 7

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS
☐ MOST SERIOUS ☐ 17-25-45

The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor	Defendant	Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☑ **State Department of Corrections**, ~~☐ **County Detention Center**~~, for a determinate term of 1 ~~days/ months/~~years ~~or ☐ under the **Youthful Offender Act** not to exceed ___ years and/or to pay a fine of $____; provided that upon the service of ____ days/ months/years and/or payment~~ $----------; plus costs and assessments as applicable*; ~~the balance is suspended with **probation** for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.~~

☐ The Defendant is to be given credit for ___ days/ months jail time.

☐ CONCURRENT or ☑ CONSECUTIVE to sentence on: 97-GS-05-289 +291

SPECIAL CONDITIONS:

☐ RESTITUTION ☐ Heard, ☐ Waived, ☐ Ordered

Total: $ _____ plus 20% fee $ _____

Payment Terms: _____

☐ set by SCDPPPS _____

_____

Recipient: _____

_____

fine:..... $ _____

14-1-206 – Assessments
100%..... $ _____

14-1-211 – Surcharge.....$ _____

Exceptions: See § 14-1-211)

56-5-2995 (DUI).....$ _____

County (3%).....$ _____

TOTAL.....$ _____

Clerk of Court/Deputy Clerk _____

Court Reporter: _____

PTUP _____

_____ days/hours Public Service Employment

Obtain GED _____

Attend Voc Rehab. or Job Corps_____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol Testing _____

Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ beginning _____

$_____ paid to the Public Defender Fund.

Other: _____

_____

PRESIDING JUDGE /s/ William P. Keesley

Judge Code: / 0 / 5 / 0

Sentence Date: 10-6-2000

_____

STATE OF SOUTH CAROLINA	**IN THE COURT OF GENERAL SESSIONS**
COUNTY OF Bamberg	INDICTMENT/CASE #:
STATE VS.	97 -GS- 05 - 289
Mark Moyers	A/W#:
AKA:	Date of Offense: 4-15-97
Race: W Sex: M	S.C. Code §: 12-54-40(b)(6)(C)
DOB: XX-XX-XX Age:	CDR CODE #: 0 / 6/ 9/ 7
SSN: XXX-XX-XXXX	
DL:	**SENTENCE**
SID#	☐ PLEA ☒ TRIAL

On disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: Willful Failure to Make Income Tax Return

In violation of § 12-54-40(b)(6)(C) of the S.C. Code of Laws, bearing CDR Code # 0 / 6 / 9 / 7

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS
☐ MOST SERIOUS ☐ 17-25-45

The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor	Defendant	Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☑ **State Department of Corrections,** ~~☐ **County Detention Center**~~, for a determinate term of 1 ~~days/ months/~~years ~~or ☐ under the **Youthful Offender Act** not to exceed ___ years and/or to pay a fine of $____; provided that upon the service of ____ days/ months/years and/or payment~~ $----------; plus costs and assessments as applicable*; ~~the balance is suspended with **probation** for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.~~

☑ The Defendant is to be given credit for 35 days/ ~~months~~ jail time.

☑ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

SPECIAL CONDITIONS:

☐ RESTITUTION ☐ Heard, ☐ Waived, ☐ Ordered

Total: $ _____ plus 20% fee $ _____

Payment Terms: _____

☐ set by SCDPPPS _____

_____

Recipient: _____

_____

fine:..... $ _____

14-1-206 – Assessments
100%..... $ _____

14-1-211 – Surcharge .....$ _____

Exceptions: See § 14-1-211)

56-5-2995 (DUI).....$ _____

County (3%).....$ _____

TOTAL.....$ _____

Clerk of Court/Deputy Clerk _____

Court Reporter: _____

PTUP _____

_____ days/hours Public Service Employment

Obtain GED _____

Attend Voc Rehab. or Job Corps_____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol Testing _____

Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ beginning _____

$_____ paid to the Public Defender Fund.

Other: _____

_____

PRESIDING JUDGE /s/ William P. Keesley

Judge Code: / 0 / 5 / 0

Sentence Date: 10-6-2000

_____

The South Carolina Court of Appeals

Mark Moyers, D.C, Appellant,

v.

South Carolina Department of Labor, Licensing and Regulation, Board of Chiropractice [sic] Examiners Respondent.

The Honorable John C. Hayes, III
Richland County
Trial Court Case No. 2003-CP-40-04378

ORDER DENYING PETITION FOR REHEARING

PER CURIAM: After a careful consideration of the Petition for Rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded and hence, there is no basis for granting a rehearing.

It is, therefore, ordered that the Petition for Rehearing be denied.

/s/ Kaye G. Hearn C.J.
/s/ Ralph King Anderson Jr. J.
/s/ John Kittredge J.

Columbia, South Carolina

May 23, 2006

cc: Mark Moyers
Geoffrey Ross Bonham, Esquire

The South Carolina Court of Appeals

The State, Respondent,

v.

Mark Moyers, Appellant.

The Honorable William P. Keesley
Bamberg County
Trial Court Case No. 1997-GS-05-00289
1997-GS-05-00290
1997-GS-05-00291

ORDER DENYING PETITION FOR REHEARING

PER CURIAM: After careful consideration of Appellant's documents filed with the Court, which we have construed as a Petition for Rehearing, we are unable to discover any material fact of principle of law that has been either overlooked or disregarded and hence, there is no basis for granting a rehearing. It is, therefore, ordered that the Petition for Rehearing be denied.

/s/ C. Francis Goolsby J.
/s/ D. Beatty J.
/s/ Joseph M. Cureton A.J.

Columbia, South Carolina

August 19, 2004

[SEAL]

The Supreme Court of South Carolina

DANIEL E SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

May 3, 2007

REGULAR AND CERTIFIED MAIL
Mr. Mark Moyers
P.O. Box 7652
Columbia, SC 29202

Re: Moyers, Mark v. SC Dept. of Labor
2003-CP-40-04378

Dear Mr. Moyers:

The Court has issued the following Order on your Petition for Writ of Certiorari in the above entitled matter:

"Petition for a Writ of Certiorari Denied.

s/ Jean H. Toal C.J.
For the Court

Justice John H. Waller, Jr.
not participating

May 3, 2007."

By copy of this letter we are advising all interested parties of the action of the Court in this matter.

Very truly yours,

/s/ Daniel E. Shearhouse
CLERK

DES/dmh

cc: Geoffrey Ross Bonham, Esquire
The Honorable Barbara A. Scott
The Honorable Kenneth A. Richstad

The Exhaustive Concordance To The United States Constitution (with Topical Index and Rapid Reference Constitution.)
Dennis Bizzoco, Editor
Firm Foundation Press, Chattanooga, Tennessee 3742
University of South Carolina Law Library Card Catalogue No. KF4528.5, E93, 1994

Editor's dedication: To The Word.

"Preface

The constitution of the United States is the supreme law of the land.[1] The medium of all law is language.[2] Therefore, the medium of the Constitution of the United States is language. "If ever a prescriptive approach to language is justified, it is in law, where linguistic precision is often of paramount concern, and where ambiguity and vagueness are quite intolerable."[3] "The meaning that language carries and the spirit it arouses are the product of words and phrases, comprehensible words and

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[1] Art VI 1:2. The Constitution of the United States of America. (p. 129 in The Exhaustive Concordance to the United States Constitution).

[2] Lavery, Urban A., Law Editor of the West Publishing Company, 1934-1939, Managing Editor of the *American Bar Association Journal*, 1939-1942; Cited in "The Language of the Law," in *The Lawyer's Treasury*, ed. E C. Gerhart, p. 376.

[3] Reavley, Thomas M., United States Court of Appeals for the Fifth Circuit; cited in *A Dictionary of Modern Legal Usage*, ed. Bryan A. Garner (Oxford University Press, 1987), p. xii.

phrases."[4] "In the legal community, absolute understanding is the measure of perfection. The primary tool for resolving conflicts among civilized people is through communication by written and oral language. The root of all language is the individual word."[5]

The civil law has been considered, perhaps not without justice, the best system of written reason.[6] "Respect for the printed word is an essential ingredient of the impartial and effective delivery of justice. To understand fully the meaning of those words, we must have some knowledge of the context from which the meanings and usages arise, what was meant by the writer and understood by the reader."[7] "Often, it is the use of a specific word or term upon which a case or controversy may hinge. Only by using precise language can the waters remain clear and unmuddied, allowing

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[4] Reavley, Thomas M., United States Court of Appeals for the Fifth Circuit; cited in *A Dictionary of Modern Legal Usage*, ed. Bryan A. Garner (Oxford University Press, 1987), p. viii.

[5] Douglas, William O., Justice, U.S. Supreme Court,1939-1975; Cited in *Legal Thesaurus*, ed. William G. Burton (MacMillan Publishing Company, 1980), p. vii.

[6] Bouvier, John; Cited in *Bouvier's LAW DICTIONARY and Concise Encyclopedia*, 3rd ed., I, p. viii.

[7] Burger, Warren E., Chairman, Commission on the Bicentienial [sic] of the United States Constitution, Chief Justice of the United States, 1969-1986; Cited in *The Language of the Constitution*, ed. Thurston Greene, (Greenwood Press, 1991), p. xiii.

justice to take its course, unfettered by those who would mislead or misrepresent."[8]"

Dedicated by Petitioner to: Katherine E. Macedon, Administrator/Director, The College of Early Learning; a Montessori Environment for Discovery, who allowed me to discover how to be careful with my use of "the individual word."

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[8] Douglas, William O., Justice, U.S. Supreme Court, 1939-1975; Cited in *Legal Thesaurus*, ed. William G. Burton (MacMillan Publishing Company, 1980), p. vii.